

REMARKS/ARGUMENTS

The rejections presented in the Office action dated August 31, 2010 (hereinafter Office action) have been considered. Reconsideration of the pending claims and allowance of the application in view of the present response is respectfully requested.

With respect to the § 101 rejection of claims 28, 30-35, and 37, the claims have been amended to indicate that the claimed computer program storage media are non-transitory. The cited OG Notice (1351 OG 212) further states that, “A claim drawn to such a computer readable medium that covers both transitory and non-transitory embodiments may be amended to narrow the claim to cover only statutory embodiments to avoid a rejection under 35 U.S.C. § 101 by adding the limitation “non-transitory” to the claim.” Applicant notes that non-transitory computer program storage media comprise all computer usable media, with the sole exception being a transitory, propagating signal. Since an interpretation of the claims is now limited to statutory subject matter, Applicant submits that the rejection has been overcome and accordingly requests that the rejection be withdrawn.

Applicant respectfully traverses the § 103(a) rejection based upon the teachings of U.S. Publication No. 2003/0100295 by Sakai *et al.* (hereinafter “Sakai”) as modified by those of U.S. Patent No. 7,493,381 to Garg (hereinafter “Garg”) because the asserted references alone, or in combination, fail to teach or suggest each of the claimed limitations. Neither of the asserted references teaches or suggests constituting a collection of both received unanswered call data and at least one saved received text message by combining together the unanswered call data and the saved received text messages, wherein content of the at least one saved received text message is descriptive of a reason for the unanswered call data, as claimed in each of the independent claims. Sakai fails to teach that contact attempts include a saved text message since Sakai only describes the presenting of a missed calls list with call connection data. Therefore, the rejection relies upon the teachings of Garg to at least correspond to the claimed saved received text message and combining of a saved received text message with unanswered call data; however, this reliance is misplaced.

Garg does not teach or suggest that content of a text message is descriptive of a reason for the unanswered call data, as claimed in each of the independent claims. Rather, the SMS message of Garg merely identifies that there was a missed call and may further provide a name

registered with the phone number originating the missed call. The Office action acknowledges that Garg's SMS message would at most read "Raj at [phone number] Qj was trying to call you at 9 am Mar. 12, 2003". Such a message provides no content descriptive of a reason for the missed call. Garg's SMS message is merely an alert notification, "[m]any service providers push an SMS notification if a mobile phone subscriber misses an incoming call for whatever reason." (Col. 30, lines 27-29). Thus, the content of Garg's SMS message is limited to the fact that a call from an identified phone number (optionally including a name registered with that phone number) was missed at an identified time. Although the user "right away can tell who the caller was", merely providing the name of the caller would not tell the user "a reason for the missed call". Notably, the SMS message is generated by the service provider, not the call originator (*e.g.*, Raj), such that the service provider could not include content descriptive of a reason for the unanswered call data. In order for Garg's subscriber to learn the reason for the missed call, the subscriber must call Raj. As explained previously, the content of the claimed text message relates to a previously unanswered call. In contrast, Garg teaches using a SMS message to generically alert a subscriber that a call was missed and when. Since neither Sakai nor Garg teaches or suggests at least the content of a text message being descriptive of a reason for unanswered call data, the asserted combination of Sakai and Garg fails to correspond to at least these limitations. Without a presentation of correspondence to each of the claimed features, the § 103(a) rejection is improper.

To establish *prima facie* obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. *In re Royka*, 490 F.2d 981, 180 USPQ 580 (CCPA 1974); and moreover, "[a]ll words in a claim must be considered in judging the patentability of that claim against the prior art." *In re Wilson*, 424 F.2d 1382, 1385, 165 USPQ 494, 496 (CCPA 1970). *See, e.g.*, MPEP § 2143.03. The Examiner appears to have ignored certain claim limitations such as those directed to content of the saved received text message being descriptive of a reason for the unanswered call data, which have not been shown to be taught by either of the cited references. Without a presentation of correspondence to each of the claimed limitations, the § 103(a) rejection cannot be maintained. Applicant accordingly requests that the rejection be withdrawn.

With particular respect to the rejection of at least claims 1 and 3-8, Applicant further traverses because neither of the asserted references teaches or suggests constituting a collection of both received unanswered call data and at least one saved received text message by combining together the unanswered call data and the saved received text messages in a subscriber terminal. As acknowledged above, Sakai makes no mention of a text message or combining at least one saved received text message with unanswered call data. While Garg teaches the use of an SMS message, the alleged combination takes place at a server. The service provider generates and pushes the SMS message to the subscriber's terminal. Moreover, Garg's server does not combine unanswered call data with a saved received text message since Garg's server generates the SMS message in response to the unanswered call data. There is no combination of separate contact attempts where one attempt is a saved received text message, and instead, there is only one contact attempt – the missed incoming call. Without correspondence to each of the claimed limitations, the § 103(a) rejection is improper, and Applicant accordingly requests that the rejection be withdrawn.

Dependent claims 3-8, 12-17, 21-26, 30-35, and 37, which depend from independent claims 1, 10, 19, and 28 respectively, are also rejected under 35 U.S.C. § 103(a) as being unpatentable over the combination of Sakai and Garg. While Applicant does not acquiesce with any particular rejections to these dependent claims, including any assertions concerning common knowledge, obvious design choice and/or what may be otherwise well-known in the art, these rejections are moot in view of the remarks made above in connection with the independent claims. These dependent claims include all of the limitations of their respective base claims and any intervening claims, and recite additional features which further distinguish these claims from the cited references. “If an independent claim is nonobvious under 35 U.S.C. §103, then any claim depending therefrom is nonobvious.” MPEP § 2143.03; *citing In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988). Therefore, dependent claims 3-8, 12-17, 21-26, 30-35, and 37 are also allowable over the combination of Sakai and Garg.

It should be noted that Applicant does not acquiesce to the Examiner's statements or conclusions concerning what would have been obvious to one of ordinary skill in the art, obvious design choices, common knowledge at the time of Applicant's invention, officially

noticed facts, and the like. Applicant reserves the right to address in detail the Examiner's characterizations, conclusions, and rejections in future prosecution.

Authorization is given to charge Deposit Account No. 50-3581 (OSN.009.US) any necessary fees for this filing. If the Examiner believes it necessary or helpful, the Examiner is invited to contact the undersigned attorney to discuss any issues related to this case.

Respectfully submitted,

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Date: December 9, 2010

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